

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF THE)
APPLICATION OF V. H. STEELE)
TO APPROPRIATE PUBLIC)
GROUND WATERS, PARTIALLY)
DENIED BY THE DEPARTMENT OF)
ECOLOGY,)
V. H. STEELE,)
Appellant,)
v.)
STATE OF WASHINGTON,)
DEPARTMENT OF ECOLOGY,)
Respondent.)

PCHB No. 79-20

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter, the appeal of a partial denial of an application to appropriate public ground water, came on for hearing before the Pollution Control Hearings Board, Dave J. Mooney, Chairman, and David Akana, Member (presiding), on June 14, 1979 in Spokane, Washington. Respondent elected a formal hearing pursuant to RCW 43.21B.230.

Appellant, V. H. Steele, appeared and represented himself. Respondent, Department of Ecology, appeared by and through its

1 attorney, Robert E. Mack, Assistant Attorney General. The proceedings
2 were recorded.

3 Witnesses were sworn and testified. Exhibits were examined.
4 Having heard the testimony and examined the exhibits, and being fully
5 advised, the Pollution Control Hearings Board makes these

6 FINDINGS OF FACT

7 I

8 The appellant, V. H. Steele, resides in Spokane County along Little
9 Creek, a tributary of the Little Spokane River. He owns a commercial
10 nursery there and has operated it since 1950.

11 In 1972, appellant applied to respondent, Department of Ecology
12 (DOE), to appropriate water from Little Creek for irrigation of two
13 acres of his commercial nursery. The waters of Little Creek had been
14 closed to further withdrawals by DOE in 1953 pending study of water
15 availability and appropriation in the entire drainage system of the
16 Little Spokane River.

17 II

18 In 1976, DOE adopted by rule a Water Resources Management Program
19 for the Little Spokane River Drainage Basin. Chapter 173-555 WAC.
20 That program closed the waters of Little Creek to further appropriation
21 excepting only for domestic and normal stockwatering purposes.
22 WAC 173-555-060.

23 Appellant requested and was allowed to amend his application to
24 specify domestic use in view of the program.
25

26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW AND
ORDER

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III

In 1979, DOE issued its Report of Examination concluding denial of any appropriation for irrigation of the two acres of commercial nursery; but, granting appellant's application for domestic supply only. From this, appellant appeals.

IV

Any Conclusion of Law hereinafter stated which may be deemed a Finding of Fact is hereby adopted as such.

From these Findings, the Board comes to these

CONCLUSIONS OF LAW

I

The Water Resources Act, chapter 90.54,RCW, directs the DOE to develop programs for making decisions in future water resource allocation and use. The DOE, after public hearing, adopted a water resources program which closed Little Creek to appropriation for commercial irrigation. WAC 173-555-060. On the evidence presented, we can find no error in the result reached by the DOE and conclude that the DOE's decision should be affirmed.

FINAL FINDINGS OF FACT,
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II

Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

From these Conclusions, the Board enters this

ORDER

The partial denial of appellant's application to appropriate public waters (application No. S3-20134) is hereby affirmed.

DONE at Lacey, Washington, this 29th day of June, 1979.

POLLUTION CONTROL HEARINGS BOARD

Dave J. Mooney
DAVE J. MOONEY, Chairman

David Akana
DAVID AKANA, Member

FINAL
FINDINGS OF FACT,
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